



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 27 2015

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Michael M. Metz
Associate General Counsel
Guardian Industries Corp.
2300 Harmon Road
Auburn Hills, MI 48326

RE: Issuance of Notice of Violation

Dear Mr. Metz:

Enclosed is a Notice of Violation ("NOV") issued to Guardian Industries Corp. under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). In the NOV, the U.S. Environmental Protection Agency notifies Guardian Industries Corp. of violations of the Prevention of Significant Deterioration provisions of the Clean Air Act at one or more of the 8 glass manufacturing furnaces located at 7 facilities in the states of California, Iowa, Michigan, New York, South Carolina, Texas, and also the Commonwealth of Pennsylvania.

Please note the opportunity to confer outlined in the NOV. As indicated in the NOV, any request to confer should be directed to Gregory Fried. Mr. Fried can be reached at (202) 564-7016.

Sincerely,

A handwritten signature in black ink, which appears to read "Phillip A. Brooks", is positioned above the typed name.

Phillip A. Brooks, Director
Air Enforcement Division
Office of Enforcement and Compliance Assurance

Cc: ✓ Allegheny County Department of Health
California Air Resources Board
Iowa Department of Natural Resources
Michigan Department of Environmental Quality
New York Department of Environmental Conservation
Pennsylvania Department of Environmental Protection
San Joaquin Valley Unified Air Pollution Control District
South Carolina Department of Health and Environmental Control
Texas Commission on Environmental Quality
David Friedland, Beveridge & Diamond
Melanie Shepherdson, U.S. Department of Justice/U.S. EPA Region 9

IN THE MATTER OF:

GUARDIAN INDUSTRIES CORP.

Proceedings Pursuant to Section 113(a)(1)
Of the Clean Air Act, 42 U.S.C. § 7413(a)(1)

)
)
) Notice of Violation
) EPA-CAA-HQ-2015-01
)
)
)

NOTICE OF VIOLATION

This Notice of Violation ("NOV") is issued to Guardian Industries Corp. ("Guardian") for violations of the Clean Air Act, as amended ("CAA"), 42 U.S.C. §§ 7401-7671q, at Guardian's glass manufacturing furnaces in the states of California, Iowa, Michigan, New York, South Carolina, Texas, and the Commonwealth of Pennsylvania.

Guardian constructed and/or modified and operated certain of these glass manufacturing furnaces without first obtaining appropriate permits authorizing the construction and/or modification and subsequent operation of the furnaces, as required by the CAA, the applicable federal regulations, and the applicable state implementation plans ("SIPs"). Guardian also failed to install and employ the best available control technology ("BACT") to control emissions of nitrogen oxides ("NO_x"), sulfur dioxide ("SO₂"), and particulate matter ("PM").

This NOV is issued pursuant to Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1). Section 113(a)(1) of the CAA requires the Administrator of the U.S. Environmental Protection Agency ("EPA") to notify any person in violation of a SIP or permit of the violations, and also to notify the state. The authority to issue this NOV has been delegated to the Director, Air Enforcement Division, Office of Enforcement and Compliance Assurance, EPA.

STATUTORY AND REGULATORY BACKGROUND

1. Section 109 of the CAA, 42 U.S.C. § 7409, requires the Administrator of EPA to promulgate regulations establishing primary and secondary national ambient air quality standards ("NAAQS" or "ambient air quality standards") for those air pollutants ("criteria pollutants") for which air quality criteria have been issued pursuant to Section 108 of the CAA, 42 U.S.C. § 7408.

2. Under Section 107(d) of the CAA, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality is better or worse than the NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular pollutant is an "attainment" area. An area that does not meet the NAAQS is a "nonattainment" area. An area that cannot be classified due to insufficient data is designated as "unclassifiable."

3. Section 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a SIP that provides for the attainment and maintenance of the NAAQS. Pursuant to Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), and 40 C.F.R. § 52.23, the Administrator thereafter retains the power to enforce any requirement or prohibition of an applicable SIP or permit.

Prevention of Significant Deterioration

4. Part C of Title I, Sections 160-169B of the CAA, 42 U.S.C. §§ 7470-7492, sets forth requirements for the prevention of significant deterioration of air quality in those areas designated as either attainment or unclassifiable for purposes of meeting the NAAQS. These PSD requirements are designed to protect public health and welfare, to assure that economic growth will occur in a manner consistent with the preservation of existing clean air resources and to assure that any decision to permit increased air pollution is made only after careful evaluation of all the consequences of such a decision and after public participation in the decision making process. EPA's regulations for the PSD program are codified at 40 C.F.R. § 52.21 (herein referred to as the "PSD regulations").

5. The Act and the PSD regulations prohibit the construction, modification or operation of a "major stationary source" in an attainment or unclassifiable area except in compliance with the CAA and the PSD regulations. See Section 165 of the CAA, 42 U.S.C. § 7475. More specifically, the CAA and the PSD regulations prohibit the construction, major modification, and subsequent operation of a major emitting facility in an area designated as attainment or unclassifiable unless a permit has been issued setting forth emission limitations for such facility which conform to the PSD requirements. See 40 C.F.R. § 52.21(a)(2)(iii).

6. Section 161 of the CAA, 42 U.S.C. § 7471, requires SIPs to contain emission limitations and such other measures as may be necessary, as determined under the regulations promulgated pursuant to these provisions, to prevent significant deterioration of air quality in attainment areas.

7. A state or regional air authority may comply with Section 161 of the CAA, 42 U.S.C. § 7471, by being delegated by EPA the authority to enforce the federal PSD regulations, set forth at 40 C.F.R. § 52.21, or by having its own PSD regulations approved by EPA as part of its SIP, which must be at least as stringent as the requirements set forth at 40 C.F.R. § 51.166. All of the states and regional air authorities with jurisdiction over the glass manufacturing furnaces at issue in this matter have either delegated or approved PSD programs. See generally 40 C.F.R. Part 52 for each State.

8. A "major emitting facility" is a stationary source in one of the types of source categories listed in Section 169(1) of the CAA that emits or has the potential to emit one hundred tons per year ("tpy") or more of a regulated air pollutant or a non-listed source that has the potential to emit 250 tpy or more of any air pollutant. See Section 169(1) of the CAA, 42 U.S.C. § 7479(1).

potential to emit 250 tpy or more of any air pollutant. See Section 169(1) of the CAA, 42 U.S.C. § 7479(1).

9. NO_x, SO₂, sulfuric acid mist, PM₁₀ and PM are regulated NSR pollutants. See 40 C.F.R. § 52.21(b)(50).

10. The PSD regulations define “major stationary source” as any stationary source, which emits or has the potential to emit, 250 tpy or more of any regulated air pollutant. See 40 C.F.R. § 52.21(b)(1)(i)(b).

11. A “major modification” includes any physical change in, or change in the method of operation of, a major stationary source that would result in a significant net emission increase of a criteria air pollutant. See 40 C.F.R. § 52.21(b)(2)(i). A net emission increase is “significant” under the PSD regulations if it equals or exceeds an increase in NO_x that would equal or exceed 40 tpy, SO₂ that would equal or exceed 40 tpy, PM that would equal or exceed 25 tpy, and PM₁₀ that would equal or exceed 15 tpy. See 40 C.F.R. § 52.21(b)(23)(i).

12. 40 C.F.R. § 52.21(a)(2)(iii) provides that, “No stationary source to which the requirements of paragraphs (j) through (r) of this section apply shall begin actual construction without a permit which states that the major stationary source or major modification would meet those requirements.”

FACTUAL BACKGROUND

13. The 8 float glass furnaces at issue in this action are owned and operated by Guardian and are located in or near the following cities: Kingsburg, California; DeWitt, Iowa; Carleton, Michigan (lines 1 and 2); Geneva, New York; Floreffe, Pennsylvania; Richburg, South Carolina; and Corsicana, Texas.

14. At those 8 furnaces, Guardian produces glass for vehicles, buildings, and other uses.

15. Each of the Guardian glass manufacturing furnaces identified in Paragraph 13 is a “major stationary source” of NO_x, SO₂, and PM, as defined in the PSD regulations. 40 C.F.R. 52.21(b)(1)(i)(b).

16. Each of the glass manufacturing furnaces identified in Paragraph 13 is a major emitting facility, as defined in the Clean Air Act, with a potential to emit 250 tpy or more of one or more criteria pollutants. 42 U.S.C. § 7479(1).

17. One or more of Guardian’s glass manufacturing furnaces is located in or near a designated attainment area with the potential to emit 250 tpy of one or more criteria pollutants. .

18. Some or all of Guardian’s glass manufacturing furnaces identified in Paragraph 13 are subject to the PSD regulations at 40 C.F.R. Part 52 and the applicable SIPs.

VIOLATIONS

Prevention of Significant Deterioration

20. Guardian constructed and/or modified certain of the glass manufacturing furnaces identified in Paragraph 13, and following such construction and/or modification, operated them without first obtaining appropriate permits authorizing the construction and/or modification and subsequent operation of the furnace and failed to install and employ BACT to control emissions of NO_x, SO₂, sulfuric acid mist and PM as the CAA, the applicable federal regulations, and the SIPs require.

21. The major modifications performed at certain Guardian glass manufacturing furnaces included, but were not limited to: cold tank repair or rebricking.

22. The major modifications performed at certain of the Guardian glass manufacturing furnaces identified in Paragraph 13 resulted in significant net emission increases of regulated NSR pollutants as defined by 40 C.F.R. § 52.21(b)(3)(i).

23. Specifically, from the time it performed major modifications to certain of the glass manufacturing furnaces identified in Paragraph 13, Guardian's actions have violated and continue to violate Section 165(a) of the CAA, 42 U.S.C. § 7475(a), and the PSD regulations set forth in 40 C.F.R. § 52.21, and the corresponding SIPs, by undertaking such major modification(s) and operating its glass manufacturing plants without first obtaining PSD permits as required by 40 C.F.R. § 52.21(a)(2)(iii) and the corresponding SIPs; and by failing to install and operate BACT for control of criteria pollutants as required by 40 C.F.R. § 52.21(j) and the corresponding SIPs.

ENFORCEMENT

Section 113(a)(1) of the CAA provides that at any time after the expiration of 30 days following the date of the issuance of this NOV, the Administrator may, without regard to the period of violation, issue an order requiring compliance with the requirements of the State Implementation Plan or permit, or bring a civil action pursuant to subsection 113(b) for injunctive relief and/or civil penalties of not more than \$25,000 per day for each violation occurring before January 30, 1997. Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2471, as amended by 31 U.S.C. § 3701, and as provided in 40 C.F.R. Part 19, the civil penalty amounts increase as follows: \$27,500 per day for each violation

occurring on or after January 30, 1997 and before March 15, 2004; \$32,500 per day for each violation occurring on or after March 15, 2004 and before January 12, 2009; and \$37,500 per day for each violation occurring on or after January 12, 2009.

OPPORTUNITY FOR CONFERENCE

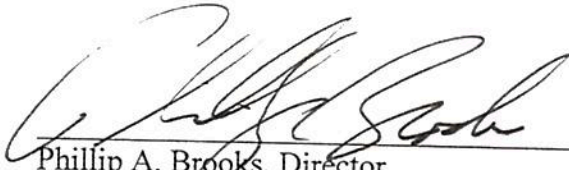
occurring on or after January 30, 1997 and before March 15, 2004; \$32,500 per day for each violation occurring on or after March 15, 2004 and before January 12, 2009; and \$37,500 per day for each violation occurring on or after January 12, 2009.

OPPORTUNITY FOR CONFERENCE

Guardian may, upon request, confer with EPA. The conference will enable Guardian to present evidence bearing on the finding of violation, on the nature of violation, and on any efforts it may have taken or proposes to take to achieve compliance. Guardian has a right to be represented by counsel. A request for a conference must be made within 10 days of receipt of this NOV, and the request for a conference or other inquiries concerning the NOV should be made in writing to:

Gregory Fried
Air Enforcement Division
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (2242A)
William Jefferson Clinton South Building
Washington, DC 20460
(202) 564-7016

5/26/2015
Date


Phillip A. Brooks, Director
Air Enforcement Division
Office of Enforcement and Compliance Assurance